

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing amendment, Claims 59-72 are pending in the present application. Claim 59 has been amended to address a cosmetic matter of form. No new matter is added.

By way of summary, the Official Action presents the following issues: Claims 59-62, 64-68 and 70-73 stand rejected under 35 U.S.C. § 102 as being unpatentable over Miura et al. (U.S. Patent Publication 2002/0028004); and Claims 63, 69 and 74 stand rejected under 35 U.S.C. § 103 as being unpatentable over Miura in view of Murakami et al. (U.S. Patent 6,483,929, hereinafter Murakami).

REJECTIONS UNDER 35 U.S.C. § 102

The Official Action has rejected Claims 59-62, 64-68 and 70-73 under 35 U.S.C. § 102 as being unpatentable over Miura. The Official Action contends that Miura describes all of the Applicants' claimed features. Applicants respectfully traverse the rejection.

Applicants' Claim 59 recites, *inter alia*, a biometric pattern detecting device, including:

a light source unit configured to emit a light to be reflected or scattered in a part of body; and

a detecting unit configured to detect an image of the light reflected or scattered in the part of body by the light source unit and generate a biometric pattern using the detected image,

wherein the light source unit is set in a horizontal direction or a horizontally slanted direction with respect to the part of body and the detecting unit is set in a vertical direction or a vertical slanted direction with respect to the part of body. (Emphasis added.)

U.S. Patent 6,993,160 (Miura et al., herein "Miura") describes a device and apparatus for carrying out personal identification by receiving a finger image in a non-contact manner

and extracting the vein pattern of the image from this finger image. Miura describes that a plurality of light sources (2) CCD cameras (4) are arranged opposite each other in a coaxial form around the central axis of a finger (20).¹ Thus, Miura describes that a vein pattern is determined by passing light through a finger (20), using light sources and CCD cameras arranged opposite to one another. Thus, Miura fails to teach or suggest “detecting an image of the light reflected or scattered in the part of the body by the light source,” but instead describes a process of detecting the light that actually passes through the body part. Further, as noted above, the detector and light source in Miura are configured in a **substantially straight line relative to the position of the finger**. Accordingly, Miura fails to teach or suggest that “the light source unit is set in a horizontal direction or horizontally slanted direction with respect to the part of the body and the detecting unit is set in a vertical direction or a vertical slanted direction with respect to the part of body,” as recited in independent Claim 59.

Claims 60-64 depend from Claim 59; Claims 66-70 depend from Claim 65; and Claims 72-74 depend from Claim 71. Accordingly, these dependent claims are patentable for at least the reasons described above. Therefore, Applicants respectfully submit that Claims 59-72, which include the above differentiated features by virtue of independent recitation or dependency, patentably define over the cited references.

REJECTION UNDER 35 U.S.C. § 103

The Official Action has rejected Claims 63, 69 and 74 under 35 U.S.C. § 103 as being unpatentable over Miura and Murakami. The Official Action contends that Miura describes all of the Applicants’ claimed features with the exception of a near-infrared light. However, the Official Action cites Murakami as describing this more detailed aspect of the Applicants’ claimed advancements and states that it would have been obvious to one of ordinary skill in

¹ Miura, col. 4, lines 19-31.

the art, at the time the advancements were made, to combine the cited references for arriving at the Applicants' claims. Applicants respectfully traverse the rejection.

As noted above, Miura does not describe all of the elements of the Applicants' claims for which it has been asserted. Likewise, as Murakami has not been asserted as describing these features and, in fact, does not, Applicants respectfully submit that a *prima facie* case of obviousness has not been presented.

Accordingly, Applicants respectfully request that the rejection of Claims 63, 69 and 74 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

As Applicants have not substantively amended the claims in response to any rejection of record, should a further rejection be applied in the next Action based upon newly cited prior art, Applicants submit that such an action **cannot properly be considered a Final Office Action.**

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present application, including Claims 59-74 is patentably distinguished over the prior art, in condition for allowance and such action is respectfully requested at an early date.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Scott A. McKeown
Registration No. 42,866